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archial countries and chief executives of republican states,² will no longer enjoy the immunity to which political fugitives are entitled.

The recent trial of the Russian Rudowitz in Chicago and the refusal to extradite, for the murder in Russia of a fellow-citizen and two defenceless women, accused of betraying revolutionary plots to the Russian government, may well give us pause, lest in our sympathy with alleged political offenders we place a premium upon the commission of unspeakable atrocities. The exclusion of assassins of heads of states and anarchists from the benefit of political offences leads to the conclusion that some limitations must be imposed upon the immunity previously granted and it may be that a reexamination of political offences in the light of experience and practice may suggest further limitations so as to separate ordinary crime from the pretence of political activity. A fugitive who has really committed a political crime should not be surrendered, but international justice and comity demand that an ordinary crime should not be invested with a political character for the sole purpose of defense. The question is as complicated as it is delicate, but a reexamination of the essentials of a political offence seems necessary in order that a right of asylum may not be abused and that we may not extend protection to unworthy persons.

THE NEWFOUNDLAND FISHERIES QUESTION

The controversy between the United States and Great Britain in relation to the Northeastern or Newfoundland Fisheries, which has been a subject of diplomatic negotiation for nearly seventy years, is to be finally settled by a submission to the Permanent Court at The Hague in accordance with the general treaty of arbitration between the two powers concluded April 4, 1908.³ On January 27th⁴ last Secretary of State Root and Ambassador Bryce signed a special agreement as provided by the treaty determining the constitution of the tribunal and reciting the questions to be decided.

The interpretation of the language of article I of the treaty of October 20, 1818, is the subject which has been the cause of difference between the countries and which is to be judicially determined. The text of the article is as follows:

² See articles quoted in Supplement from treaties with the following countries: Belgium, p. 149; Brazil, p. 147; Denmark, p. 149; Guatemala, p. 150; Haiti, p. 144; Mexico, p. 147; Portugal, p. 163; Russia, p. 145; Spain, p. 150.

³ See Supplement, 2:298.

⁴ See supplement to this issue, p. 168.

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador, to and through the Straights of Belleisle and thence northwardly indefinitely along the coast, without prejudice however, to any of the exclusive rights of the Hudson Bay Company: and that the American fishermen shall also have liberty forever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on, or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above-mentioned limits; provided however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

It will be observed that by this treaty American fishermen were excluded from taking fish in waters within three marine miles of the British colonial coasts except along southern and western Newfoundland, Labrador, and the Magdalen Islands; and that they were also prohibited from landing on the coasts to cure and dry fish except on the Labrador coast and on a small strip of the southern shore of Newfoundland. The American fishing vessels were, however, permitted to enter the prohibited coastal waters for certain purposes, namely, to find shelter, to repair damages, and to procure wood and water, but these privileges were to be exercised under such restrictions as were necessary to prevent their abuse.

The first dispute concerning the treaty arose about twenty-five years after the signature through the seizure by Nova Scotia revenue vessels of American craft, which were claimed to have taken fish within the three-mile limit, a charge denied by the Americans. The question in

controversy was: upon what basis was the prohibited belt of marginal sea to be fixed? In the diplomatic correspondence which followed the British government asserted that the words of the treaty, "coasts, bays, creeks, or barbours" determined that the line, from which the three miles were to be measured, was such that it crossed the entrance of every bay regardless of its width. This the United States denied, claiming that the language referred only to bays, the width of which did not exceed six marine miles.

In 1854 the controversy, which had been dragged out by ingenious arguments upon both sides, came for a time to an end by the reciprocity treaty of that year which gave to the fishermen of the United States and the British colonies mutual privileges of resort to all coastal waters. With the expiration of that treaty in 1866 the question again arose, but was quieted for a few years by a system of licenses granted to American fishermen by the colonial governments. However, it shortly became a cause of irritation through the renewal of the Canadian policy of making seizures, but the Treaty of Washington (1871) ended the difficulty by reestablishing reciprocal trade and fishing privileges. Upon the expiration of that last venture in reciprocity between the United States and its northern neighbors, the colonial authorities commenced once more to make seizures, and the diplomats at Washington and London attempted to reach a settlement by a new agreement. The Bayard-Chamberlain treaty of 1888 was negotiated, but it failed to receive the assent of the United States Senate. Two years later Secretary Blaine and Honorable Robert Bond of Newfoundland came to an agreement in the form of a reciprocity convention, which was to have settled the dispute so far as the Newfoundland fishery was concerned. Canada, however, not being included in the treaty and fearing that it would interfere with its plan of reciprocity with the United States, objected to the ratification and as a result the British government declined to sanction the agreement.

For twelve years after this failure the American fishermen prosecuted their trade without interruption, but Newfoundland being specially desirous of a reciprocity agreement with the United States, Sir Robert Bond made a second visit to Washington and prepared with Secretary Hay a treaty in relation to the fisheries and reciprocal trade, which was signed November 8, 1902; but to it the Senate never gave its assent.

With the failure of the Hay-Bond treaty the attitude of Newfoundland toward the American fishermen changed. As a result new ques-

tions were raised as to the fishing rights of the United States in the coastal waters of Newfoundland. The colonial government adopted fishery regulations as to the methods and times of taking fish, together with other restrictions, claiming that they applied to Americans as well as to their own people. These the Americans considered burdensome and as discriminating against them in favor of the local fishermen. The government also adopted certain customs regulations and applied them to American fishing vessels, which, it was alleged, interfered materially with the exercise of their fishing rights. Canada had also claimed that fishing vessels of the United States resorting to the bays and harbors of the Dominion for shelter and repairs should enter and clear at custom houses.

The subject was in this unsatisfactory state, the situation becoming more and more acute, when Secretary Root took up the negotiation, which finally resulted in the special agreement of January 27, 1909, by which the questions in controversy are to be decided by a tribunal of five arbitrators selected from the panel of The Hague Permanent Court, one arbitrator being from each of the disputant countries, and three from foreign states.

The settlement of this controversy, which has so long vexed the statesmen of the United States and Great Britain, will be a matter for congratulation to both countries, as it will determine definitely and for all time their respective rights in the coast fisheries of the North Atlantic. The negotiation of the treaty of April 4, 1908 and the special agreement of last January adds another triumph to the list which bears witness to the successful diplomacy which has characterized the secretaryship of the Honorable Elihu Root.

THE INSTITUTE OF INTERNATIONAL LAW

The editors beg to call attention to the statement in the last issue, page 188, regarding the newly elected associate members of the Institute of International Law. In place of Professor Triepel of Tübingen should be the name of Christian Meurer, professor of public law at the University of Würzburg, whose authoritative work on the First Hague Conference appeared in two volumes in 1907. The official report of the meeting, which has just been received, also announces that M. Léon Bourgeois, the prominent first member of the French delegation at the Second Hague Conference, was elected to honorary membership during the same session of the Institute.